

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6787

BILL NUMBER: HB 1086

NOTE PREPARED: Feb 25, 2010

BILL AMENDED: Feb 24, 2010

SUBJECT: Tax and Expenditure Administration.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR: Sen. Hershman

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **X** GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill contains the following provisions:

Finance Authority: This bill specifies that the Indiana Finance Authority (authority) is authorized to enter into a contract to sell substitute natural gas (SNG) to third parties. The bill specifies requirements for contracts entered into by the authority to sell SNG. It specifies that the obligation of the authority to pay for SNG is limited to the funds available in the substitute natural gas account plus any other amount recoverable by the authority under the contract, and provides that an obligation of the authority under these provisions is not supported by the full faith and credit of the state.

State Expenditure Information: This bill requires the Auditor of State, working through the State Board of Finance, to develop and maintain an Internet web site detailing state expenditures by state agencies. It provides that the state and state officials, officers, and employees are immune from any civil liability for posting confidential information under certain conditions.

Sales Tax Payments by Municipal Golf Courses: The bill provides that tangible personal property acquired for use in the operation of a municipal golf course is exempt from Sales Tax.

Internal Revenue Reference Update: This bill amends the definition of federal "Internal Revenue Code" used in Indiana statutes and rules to refer to the Internal Revenue Code in effect on January 1, 2010. It requires that two years be used for the net operating loss carryback period for taxpayers (instead of the five years allowed under the federal Worker, Homeownership, and Business Assistance Act of 2009).

Electronic Filing of Tax Withholding Forms: The bill requires that federal income tax withholding statements

and annual withholding tax reports must be filed electronically with the Department of State Revenue if an employer or a person or entity acting on behalf of an employer files more than 25 federal income tax withholding statements with the department in the calendar year.

Streamlined Sales Tax Agreement Conformity: This bill makes changes in the Gross Retail and Use Tax laws to conform to the requirements of the Streamlined Sales and Use Tax Agreement.

CRED: The bill authorizes a third area in Delaware County for designation as a community revitalization enhancement district (CRED). The bill provides that the area must contain a building with at least 1,000,000 square feet, and that at least 700 fewer people are employed in the area than were employed in the area on January 1, 2008. This bill provides that for two of the three districts the advisory commission on industrial development must specify which of these two districts will receive an allocation of the income tax incremental amount and the gross retail incremental amount and be eligible for CRED tax credits. The bill permits the advisory commission to select only one of the two districts to receive the allocation.

EDGE Tax Credit: The bill provides that any entity that submits income tax withholdings could qualify for the economic development for a growing economy tax credit if approved for the credit by the Indiana Economic Development Corporation (IEDC). The bill repeals the power of IEDC to grant the credit to a specified nonprofit organization.

Agricultural Land Assessments: This bill provides that in making the annual calculation of the base rate for the assessment of agricultural land, the Department of Local Government Finance (DLGF) must use an adjusted six year average that eliminates the highest and lowest values determined for the six year period.

Maximum Levy: The bill provides that upon request by a civil taxing unit, the DLGF may make an adjustment to the civil taxing unit's maximum property tax levy if the civil taxing unit's actual levy for the previous year was lower than its maximum property tax levy for that previous year because of the civil taxing unit's use of cash balances.

Standard Deduction: The bill permits an individual to receive both a senior citizen property tax deduction and a supplemental standard deduction.

Cyclical Reassessments: This bill deletes the statute requiring a general reassessment to begin in 2010. It requires the county assessor of each county to prepare and submit to the DLGF a reassessment plan for the county. The bill specifies that the reassessment plan is subject to approval by the DLGF. It requires that each group of parcels must contain at least 20% of the parcels within each class of real property in the county. The bill specifies that all parcels continue to be revalued annually under the trending rules.

The bill also provides that the county assessor determines the values of all classes of land in the county. It provides that a petition for the review of the land values determined by the county assessor may be filed with the DLGF. The bill provides that the reassessment of the first group of parcels under a county's reassessment plan must begin on July 1, 2011, and must be completed on or before March 1, 2012.

Personal Property Returns: This bill extends from six months to one year the time period allowed for filing an amended personal property tax return. It reduces by 10% a credit or refund if an amended personal property tax return is filed more than six months, but less than 12 months, after the due date (including any extension period) for the original personal property tax return.

Referenda: The bill provides that in the case of a project that would be subject to the petition and remonstrance process, the fiscal body of the political subdivision proposing to issue the bonds or enter into the lease may adopt a resolution specifying that the referendum process applies instead of the petition and remonstrance process.

The bill also provides that during the period beginning with the adoption of a resolution by a school corporation to place a referendum tax levy question on the ballot and continuing through the day on which referendum is submitted to the voters, the school corporation may not promote a position on the referendum by taking certain actions. It specifies that a person or an organization that has a contract or arrangement with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a referendum. The bill also allows an elected or appointed public official of a school corporation to personally advocate for or against a position on the referendum so long as it is not done by using public funds.

Church Exemption: The bill authorizes a property tax exemption for the 2007 assessment date for land and improvements owned by a church that failed to file an exemption application for that year.

Social Service Center Exemption: This bill authorizes a property tax exemption for the 2006 assessment date for personal property, land, and improvements owned by a social service center that failed to file an exemption application for that year.

Fraternity and Other Exemptions: The bill permits a taxpayer to file or refile a property tax exemption application under the exemption statutes available for sorority and fraternity property or for charitable property generally with respect to exemptions for the 2006, 2007, 2008, and 2009 assessment dates.

Boy Scout Exemption: The bill authorizes a property tax exemption for the 2007 assessment date for land and improvements owned by a local council of the Boy Scouts of America that failed to file a timely exemption application for that year.

American Legion Exemption: This bill authorizes a property tax exemption for the 2007 assessment date for land and improvements owned by an American Legion that failed to file a timely exemption application for that year.

Retroactive Exemptions: The bill restricts the persons who are eligible to file a late property tax exemption application under the authority of P.L.182-2009(ss), SECTION 479.

Delinquent Taxes: This bill requires payment of certain delinquent property taxes before removing property from the tax sale list or allowing a person to record a plat of a subdivision or consolidate contiguous parcels into a single parcel for property tax purposes.

Deadlines: The bill changes the deadline for filing a rehabilitation property tax deduction application. The bill also extends the time in which an ordinance imposing, increasing, or decreasing a local income tax may be adopted.

Fire Protection Territories: The bill permits fire protection territories (FPT) to delay part of an increase in property taxes for up to three years.

LOIT Credits: This bill requires surplus local option income tax revenue to be used as property tax

replacement credits.

Miscellaneous: The bill defines the term "mobile home community" for the purposes of the property tax laws. It also corrects references to the definition of homestead, removes references to obsolete administrative rules related to inventory, and makes other technical changes property tax laws.

Study Committees: This bill provides for a study of the allocation and distribution of local income taxes and for the preparation of corrective legislation to amend all laws affected by the change in the last date that local taxes can be imposed, increased, or decreased in a county.

The bill also establishes the Interim Study Committee on Economic Development. It requires the committee to issue a final report before November 1, 2010, to the Legislative Council.

Constitutional Amendment: The bill specifies the ballot language for the submission of the proposed amendment to the Constitution of the State of Indiana concerning circuit breakers and other property tax matters.

Wireless Emergency Telephone System Fund: This bill requires a seller of prepaid wireless telecommunications service to collect at the point of sale an enhanced prepaid wireless charge that does not exceed 50% of the monthly wireless emergency enhanced 911 fee. The bill requires the seller to remit the enhanced prepaid wireless charge to the Wireless Enhanced 911 Advisory Board for deposit in the Wireless Emergency Telephone System Fund.

Public Libraries: This bill provides that in the case of a public library that: (1) is outside Marion County; (2) has assessed valuation inside and outside a city or town but was originally established by the city or town; and (3) has a nonelected board; any required approval of the public library's budget, property tax levy, or bond issues beginning December 31, 2010, must be made by the county council (rather than the city or town that originally established the public library, as required under current law) if more than 50% of the parcels of real property within the jurisdiction of the public library are located outside the city or town.

The bill provides that an appointee to a Class 1 public library board who serves four consecutive terms may be reappointed to the board at least four years after the date the appointee's most recent term ended. It allows a Class 1 or Class 2 public library board to issue local library cards without charge to a nonresident of the library district who is: (1) a library employee of the district; or (2) a teacher employed by a school corporation or nonpublic school located in the district; if the library board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

This bill allows a Class 1 or Class 2 public library board to designate a third party to collect money for the library regardless of the amount of money owed. (Current law allows a Class 1 library board to designate a third party to collect amounts over ten dollars.) It allows a Class 1 or Class 2 library district to dissolve if identical resolutions are adopted by a majority of the appointed members of the: (1) legislative bodies of the municipalities, townships, and counties that are a part of the district; and (2) the library board. The bill also allows a Class 1 or Class 2 public library to pay claims by electronic funds transfer if the library board authorizes the payment method by adopting a resolution.

Effective Date: (Amended) Upon passage; January 1, 2006 (retroactive); July 1, 2007 (retroactive); March 1, 2008 (retroactive); January 1, 2009 (retroactive); June 30, 2009 (retroactive); November 6, 2009 (retroactive); January 1, 2010 (retroactive); March 1, 2010 (retroactive); May 15, 2010 (retroactive); July

1, 2010; January 1, 2011.

Explanation of State Expenditures:(Revised) *Electronic Filing of Tax Withholding Forms:* The bill requires an employer to electronically file employee W-2 forms and the WH-3 form with the Department of State Revenue (DOR) in any calendar year that the employer files more than 25 W-2 forms with the DOR. This requirement also applies to a person or entity such as a payroll company that files these forms on behalf of an employer. The electronic filing requirement begins in 2011. The requirement is expected to result in a cost savings to DOR by significantly reducing the number of paper W-2 and WH-3 forms that must be imaged and stored and by reducing manual data entry from the paper forms.

The W-2 is an Internal Revenue Service form on which an employer annually files reporting wages, salaries, and other compensation paid to an employee and the federal, state, and local income taxes and FICA taxes withheld on the compensation. The WH-3 is a DOR form that an Indiana employer must submit along with W-2s reporting the state income tax and local option income tax withheld by the employer, including a county-by-county breakdown of local option income tax withholdings.

DOR: The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in this bill. It is estimated the DOR could implement these changes through the use of its existing level of staff and resources.

(Revised) *CRED:* This bill authorizes a third area in Delaware County for designation as a CRED. However, the bill specifies that if the new CRED is designated, the advisory commission on industrial development must select either the current ABB CRED, which is inactive, or the new CRED to receive allocations of incremental income and sales taxes. The advisory commission is required to inform the State Budget Agency (SBA) of the selection. Under current law, the State Budget Committee must review and make a recommendation to the SBA after they are notified of the local resolution designating a CRED. The SBA must approve the resolution designating the district. However, if the SBA fails to take action within 120 days of the date the resolution is submitted to the Budget Committee, the resolution is considered approved. The DOR must calculate the base income tax amount and the base gross retail amount for the district. The DOR and the SBA must annually estimate and certify the amount of income tax and sales tax which will be collected from the district.

(Revised) *State Expenditure Information: Summary* - This bill will increase administrative costs for the State Auditor's Office. The increase is indeterminable and will depend on the amount of resources that will be required to implement the database required by the bill. The bill requires the State Auditor's Office and the State Board of Finance to work together to design an Internet web site detailing state expenditures and fund balances. Also, the bill requires Auditor's Office to provide a report to the State Board of Finance and the Legislative Council that details the state expenditures and fund balances contained in the database and the progress that has been made regarding the provisions in this bill. It is estimated that all state agencies currently have the information needed for the database.

(Revised) *Study Committees:* This provision would require the Commission on State Tax and Financing Policy to study the allocation and distribution of local income taxes during the 2010 interim. There would be no additional expense to include this topic of study.

This bill also establishes the Interim Study Committee on Economic Development. The Committee will consist of 17 members as follows: 2 Senators, 2 Representatives, the CEO of the Indiana Economic Development Corporation (IEDC) or their designee, and 12 members appointed by the Governor. The

Committee is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$16,500 per interim for committees with 16 members or more.

This bill specifies that the Interim Study Committee on Economic Development is to study the following topics:

- (1) best practices in state and local economic development policies and activities;
- (2) the use and effectiveness of tax credits and deductions;
- (3) whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states;
- (4) the extent to which Indiana's tax laws encourage business investment and any improvements that might be made to Indiana's tax laws;
- (5) the extent to which Indiana's education systems support economic development;
- (6) the benefits of existing CREDs and possible new CREDs; and
- (7) any other issue assigned to the Committee by the Legislative Council or as directed by the Committee's co-chairs.

(Revised) *Wireless Enhanced 911 Advisory Board*: Sellers of prepaid telecommunications services must remit the charges obtained at the point of sale to the Board. The Board, in conjunction with the Department of State Revenue, must establish procedures for sellers to document that sales of prepaid wireless telecommunications services are not retail transactions. These provisions may increase administrative costs for the Board.

DOR: The bill provides that the sellers of prepaid wireless telecommunications services will be subject to the same audit and appeal procedures concerning collection and remittance of charges as with collection and remittance of state Sales Tax. The bill also provides that an audit must be conducted jointly by the DOR and the Board.

State Expenditure Information: Background Information - There are 29 states that currently provide budget and spending information online: Alabama, Alaska, California, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming.

Six states are currently involved in the process of implementing websites containing budget and spending information: Arizona, Colorado, North Dakota, Ohio, Oregon, and West Virginia.

State Examples -

Alaska: Alaska's Checkbook Online was launched in January 2008 and was created by using reports from a data warehouse of accounting information which were posted on the website. The total implementation cost of the website was about \$5,000. The website is updated monthly, which takes about one day for the accountant to pull the reports and the webmaster to post the information and update the links. Checkbook Online only includes payments made through the statewide accounting system, and does not include financial information for state educational institutions.

Nebraska: The Nebraska Spending website includes audit and budget databases and was

implemented through a phase-in process. The first phase, which occurred in January 2008, made information regarding the budget, tax revenues, tax information (descriptions of the taxes and their respective rates), and the previous fiscal year expenditures available to the public. The second phase included information about property taxes, state contracts from 1997 to 2007 for expenditures over \$500,000, and was implemented in May 2008. The third phase, which was to be completed in May 2009, will include spending for state educational institutions, and is estimated to cost approximately \$3,000 to \$5,000 to implement. In its current form, the cost for the website is estimated to be \$38,000, and reoccurring annual maintenance costs are estimated to be about \$1,100.

Nevada: The Nevada Open Government website includes state expenditures and revenue sources. The projected development costs of the website for the current fiscal year are estimated to be about \$160,000. The website will expand in the future to include information on payroll, contracts, and grants. The inclusion of this information is expected to cost about \$266,000 to implement. Annual maintenance costs are estimated to be about \$25,000. Actual expenditures are not included for state educational institutions since they do not record their expenditures in the statewide financial system. However, the website includes their budgetary information, including revenue sources other than the General Fund, such as registration fees, as part of the executive budget.

Oklahoma: Oklahoma's Open Books website was launched in September 2007, and it includes information on state expenditures, revenues, incentive payments, and tax credits. Search capabilities were added after the site was launched. The initial implementation of the website was about \$40,000 and was accomplished through existing resources. Ongoing maintenance costs have not been tracked and are accomplished through existing resources.

Explanation of State Revenues: (Revised) *Internal Revenue Reference Update:* The bill updates the reference to the Internal Revenue Code to incorporate all the federal changes made up to January 1, 2010. The current reference to the IRC pertains to all IRC provisions amended and in effect on February 17, 2009. The update would include changes as a result of the *Worker, Homeownership, and Business Assistance Act of 2009* (P. L. 111-92), signed into law on November 6, 2009. This federal act should not generate a material fiscal impact because the bill decouples from provisions of the federal act allowing a special 5-year (instead of 2-year) carryback for 2008 and 2009 net operating losses incurred by businesses.

(Revised) *Streamlined Sales Tax Agreement Conformity:* The bill specifies sales that are excluded from the Sales Tax base, specifies certain sales that are exempt from Sales Tax, and specifies certain sales that are taxable under the Sales Tax for purposes of conformity with the Streamlined Sales Tax Agreement. The amendments, however, do not change the current treatment of these sales under the Sales Tax, so these changes are not expected to result in a fiscal impact.

For purposes of conformity with the Streamlined Sales Tax Agreement, the bill amends the statutory language relating to breakage of Sales Tax, including eliminating the breakage table for sales of less than \$1.07. This amendment does not change the breakage on sales of \$1.07 or more, but does result in a slight change in breakage for sales of less than \$1.07. The latter could result in a small positive fiscal impact from some sales that are less than \$1.07.

(Revised) *CRED Income and Sales Tax Increment Allocations:* Current statute provides that a CRED must terminate not later than 15 years after incremental income or sales taxes are first allocated to the CRED. The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to an area designating a CRED. Currently, Delaware County has two CREDs, one is

active (the Magna CRED) and one is inactive (the ABB CRED). Each of these CREDs also is subject to an annual income and sales tax capture limit of \$1 M. Distributions of captured tax revenue to the Magna CRED totaled \$77,227 in FY 2007; \$271,835 in FY 2008; and \$299,829 in FY 2009.

(Revised) *Community Revitalization Tax Credit*: Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a community revitalization enhancement district is entitled to this tax credit. The credit is based on 25% of the qualified investment. The credit may be used to reduce the taxpayer's tax liability against the AGI Tax, the Financial Institutions Tax, or the Insurance Premiums Tax. The taxpayer may carry any excess credit over to the immediately following years, but is not entitled to a carryback or refund of any unused credit. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district. The revenue loss that could potentially be incurred due to investment in an additional Delaware County CRED is indeterminable. The table below reports the number of individual and corporate taxpayers that claimed the tax credit for CRED investment in 2005, 2006, and 2007, as well as the total credit amount claimed each year. The CREDs that the investment and tax credit were attributable to is unknown.

Community Revitalization Enhancement District Tax Credit	2005	2006	2007
Individual Income Taxpayers			
Taxpayers Claiming Credit	94	84	55
Credits Claimed	\$291,249	\$54,228	\$416,447
Corporate Income Taxpayers			
Taxpayers Claiming Credit	N/A	4	3
Credits Claimed	N/A	\$3,224,231	\$2,663,171
N/A=Data not available for 2005.			

Revenue from the AGI tax, the Financial Institutions Tax, and the Insurance Premiums Tax is deposited in the state General Fund. Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.67%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Additional Information - Under current statute, CREDs may be established in certain specified local units, and in 1st and 2nd class cities. CREDs are allowed to capture incremental revenue from Sales Tax, state Income Tax, and local option income taxes. A local resolution to designate a CRED must be reviewed by the State Budget Committee and approved by the State Budget Agency.

Under the provisions allowing CREDs in specific local units, six CREDs have been established: (1) one each in the city of Bloomington, the city of Fort Wayne, the city of Marion, and the city of South Bend; and two in Delaware County. All but one of these CREDs (the ABB CRED in Delaware County) are active. The annual capture limit for Sales Tax and state Income Tax for each of these CREDs is \$1 M.

Under provisions allowing CREDs in 1st and 2nd class cities, four CREDs have been established: one each in Anderson, Bloomington, Fort Wayne, and Indianapolis. The Bloomington and Indianapolis CREDs are currently active and receiving captured revenue distributions. The annual capture limit for Sales Tax and state Income Tax for each of these CREDs is \$750,000.

(Revised) *EDGE Tax Credit*: The bill extends the EDGE tax credit to not-for-profit entities that receive

approval for credits from the IEDC. This would result as the bill specifically changes the definition of a taxpayer for purposes of the EDGE tax credit to include an entity that while not having a state tax liability does report incremental income tax withholdings of employees. In conjunction with the definition change, the bill also repeals a provision that allows EDGE credits to be awarded to Midwest ISO, which is a tax exempt entity pursuant to Federal Code Section 501(c)(4). The potential fiscal impact of this change is indeterminable. The fiscal impact would depend on action by the IEDC in the future to award EDGE credits to nonprofit entities, and would depend on the extent that credits induce new investment or retain existing businesses.

A taxpayer is eligible for the EDGE tax credit for undertaking a project that creates new investment and jobs in Indiana or that retains existing jobs in Indiana. The IEDC determines the amount and duration of EDGE credits awarded for a project. For a job creation project, the credit can't exceed the incremental income tax withholdings from the project and can't exceed 10 years. There is no aggregate credit limit for job creation credits, but the amount of job retention credits awarded annually may not exceed \$10 M. The credits may be claimed against the taxpayer's adjusted gross income tax liability, Insurance Premiums Tax liability, or Financial Institutions Tax liability. However, the IEDC is authorized to provide refundable credits at its discretion. The bill would allow EDGE credits to be taken by a taxpayer that doesn't have a tax liability but does remit income tax withholdings on employees. Current statute also contains a special provision that authorized the awarding of EDGE credits to Midwest ISO, which is a nonprofit entity. The bill repeals this provision.

A business that undertakes a job creation project receives EDGE credits in relation to the individual income taxes withheld for employees filling the newly created positions. Consequently, the tax credit does not represent a net revenue loss, provided the investment and employment would not occur but for the tax credit. However, if the investment and employment would have occurred in the absence of the tax credit, the state incurs a revenue loss equal to the total amount of credits taken by the business. For job retention projects, no new revenue would be realized since no new jobs would be created. As a result, EDGE credits for job retention are paid from existing revenues, resulting in a net loss to the state equal to the amount of EDGE credits granted to a business for job retention. However, if a business were to select a more profitable alternative project site and move out of Indiana, there could be an even greater loss of revenue from the reduction in individual (employee's) and corporate taxes.

(Revised) *Sales Tax Payments by Municipal Golf Courses*: The bill exempts from sales tax transactions involving tangible personal property acquired for use in the operation of a municipal golf course. In all likelihood sales tax on such transactions has historically not been paid. Consequently, any fiscal impact as a result of this provision is expected to be minimal.

(Revised) *Wireless Emergency Telephone System Fund*: This bill imposes an enhanced prepaid wireless charge at the point of sale by sellers of prepaid wireless telecommunications services. The charge cannot exceed 50% of the monthly wireless emergency enhanced 911 fee. The charges collected at the point of sale will be deposited in the Wireless Emergency Telephone System Fund by the Board. The sellers may retain 1% of the charges from consumers to offset the direct costs of collection and remittance. The amount of revenue that will be collected is indeterminable.

Background Information - The wireless emergency enhanced 911 fee is imposed at \$0.50 per phone per month. Revenues received from this fee for FY 2005 through FY 2009 are provided in the table below. After the Board recovers their administrative costs, the remaining revenue is distributed on a monthly basis to each county containing one or more eligible public safety answering points (PSAPs). A county must use

the distribution to make distributions to PSAPs that accept wireless enhanced 911 service for the actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules. Any amount of revenue that remains must be distributed equally between escrow accounts for reimbursement to commercial mobile radio service (CMRS) providers, PSAPS, and the Board.

Fiscal Year	Revenue
2005	\$24.1 M
2006	\$30.5 M
2007	\$32.2 M
2008	\$24.7 M
2009	\$27.4 M

Explanation of Local Expenditures: (Revised) *Cyclical Reassessment:* Under a cyclical reassessment schedule, expenditures for reassessment in a county would be spread from a two-year period to a period of up to five years.

Currently, the township assessor, or county assessor if there is no township assessor, must set the initial land values and then submit them to the county PTABOA for review. Under the bill, the county assessor would determine all land values. The PTABOA would no longer have a review function, eliminating the cost of the public hearings that they currently must hold. The PTABOA would, however, determine land values in a county if the county assessor fails to do so. If both the county assessor and the PTABOA fail to determine land values, the DLGF would determine the values.

The bill would allow a group of taxpayers to petition the DLGF for a review of the county assessor's land values. The petition could be filed up to 45 days after the values are determined and must be signed by the lesser of (1) 100 real property owners or (2) 5% of the real property owners in the county. The DLGF would be required to review the land values upon petition.

Delinquent Taxes: Under current law, a transfer of ownership interest for a real property parcel that results from either a split or a combination of parcels may not be recorded until all past due property taxes are satisfied and the county auditor makes an endorsement.

This bill would also require payment of past due taxes and the auditor's endorsement before property is removed from the tax sale list and before allowing a person to record a plat of a subdivision or to consolidate parcels. This provision could increase the number of instruments that would have to be endorsed by the county auditor.

LOIT Credits: Under current law, the DLGF must calculate and certify the county homestead credit percentage for the LOIT-funded homestead credit. Under this bill, each county would make their own calculation. The bill also specifies that revenue remaining after LOIT property tax replacement is paid, if any, must be used for property tax replacement in subsequent years.

(Revised) *Budgets and Bond Issues of Public Libraries:* Under current law, a public library that has a non-

elected board and whose assessed valuation is not entirely contained within a city or town but was originally established by the city or town, is required to have its budget and property tax levy and bond issues approved by the city or town fiscal body. Under this bill, if more than 50% of the parcels of real property within the jurisdiction of the library are located outside the city or town limits, the county council rather than the city or town fiscal body would become the approving authority. Neither current law nor this proposed legislation applies to public libraries in Marion County.

The fiscal impact of this proposal would depend upon whether the county council would approve a lower budget and property tax levy or a smaller bond issue than would have been approved by the city or town fiscal body. If the budget or the amount of the bond issue would be the same, then the fiscal impact is minimal.

(Revised) *Reappointment to the Library Board:* Under current law, an appointee to a Class 1 library board may not serve more than four consecutive terms. However, if the library district has a population of less than 3,000 and an exhaustive search for a replacement is unsuccessful, the appointing authority may reappoint a board member who has served four or more consecutive terms. Current law limits a Class 2 library board member to a single four-year term.

The bill permits a less restrictive policy on reappointment to Class 1 library boards only (Class 2 library board members would still be limited to a single four-year term). It provides that a board member who serves four consecutive terms may be reappointed at least four years after the date the appointee's most recent term ended. Additionally, an unexpired term of two years or less that an individual serves in filling a vacancy on the board may not be counted in computing consecutive terms.

The fiscal impact would depend on how difficult (or costly) it is to replace a board member whose term has expired. As a minimum, the bill would make it much easier to keep well-qualified individuals on the board.

(Revised) *Dissolution of Library Districts:* The bill establishes the procedure whereby a Class 1 or Class 2 library can dissolve, which is the following: (1) the resolution to dissolve must be adopted by a majority vote of the appointed board members; (2) the legislative bodies of the municipalities, townships, and counties that are a part of the district must approve the resolution; (3) the resolution must then be filed at the State Library and at the county recorder in each county in which the library district is located; (4) all legal and fiscal obligations of the library district have been satisfied; (5) the assets of the district have been distributed; and (6) a notice is filed with the county recorders and the State Library that the dissolution is final. The fiscal impact is minimal.

Explanation of Local Revenues: *Agricultural Land Assessments:* Under current law, the assessed value of real property is adjusted each year to reflect market changes. Each year, the base rate for agricultural land is set by the DLGF, based on a six-year rolling average of the capitalization of net cash rents and net operating income for farmland. Beginning with taxes payable in 2011 under this bill, both the high and low years in the six-year average would be dropped.

The base value per acre of farmland is \$1,250 for taxes payable in 2010, and is currently estimated at \$1,400 for 2011, \$1,700 for 2012, and \$1,810 for 2013. Under this proposal, the base rate would be \$1,400 for 2011 (no change), \$1,590 for 2012, and \$1,750 for 2013.

The reduction in the farmland base rate in this proposal would result in a smaller tax base than under current law. This would lead to a higher tax rate. The statewide average tax rate per \$100 AV would increase by an

estimated \$0.0112 in 2012 and \$0.0058 in 2013.

This increased tax rate would shift part of the tax burden from farmland to all other classes of property. In addition, circuit breaker credits would increase by a small amount and TIF proceeds would increase slightly. The table below contains estimates of these changes.

Estimated Net Property Tax and Circuit Breaker Changes				
Net Tax by Property Type	2012		2013	
Homesteads	+5.3 M	+0.3%	+2.9 M	+0.2%
Farmland	-16.3 M	-5.1%	-8.5 M	-2.6%
Other Residential	+1.3 M	+0.2%	+0.7 M	+0.1%
Commercial Apartments	+0.1 M	+0.1%	+0.1 M	+0.1%
Ag_Business (Ex. Farmland)	+1.2 M	+1.2%	+0.6 M	+0.6%
Other Real Property	+2.9 M	+0.2%	+1.5 M	+0.1%
Personal Property	+2.9 M	+0.3%	+1.5 M	+0.2%
TIF Proceeds	+0.6 M	+0.1%	+0.3 M	+0.1%
Circuit Breakers	+3.0 M	+0.7 %	+1.5 M	+0.4%

Maximum Levy: Under current law, civil taxing unit maximum levy limits grow by the six-year average increase in Indiana nonfarm personal income. The growth factor is applied to the sum of the previous year's actual controlled levy *after eliminating the effects of temporary adjustments to the working maximum levy*, plus one-half of the amount of maximum levy in the previous year that was not levied.

Under this bill, the DLGF may adjust a civil taxing unit's maximum levy the if the unit used cash balances rather than its entire levy authority in the preceding year. This provision could encourage taxing units to use cash balances and temporarily reduce levies without losing any levy authority.

Standard Deduction: Under current law, homeowners who receive the senior deduction may not receive any other deductions except for the mortgage deduction and the traditional standard deduction. The new supplemental homestead standard deduction is automatically granted to any homeowner that receives the traditional standard deduction. This bill clarifies that senior taxpayers may receive both the over-65 deduction and the supplemental standard deduction.

(Revised) *Cyclical Reassessment:* Under current law, real property is fully reassessed every five years. The next general reassessment takes effect with taxes payable in 2013. Annual adjustments to real property values are applied each year in which a general reassessment does not take effect.

Under this bill, counties would submit a reassessment plan to the DLGF by December 31, 2010. The plan must divide the parcels in the county into five groups that each contain approximately 20% of the parcels in each property class. Beginning with the March 1, 2012, assessment date, each county would inspect one group each year rather than conduct a general reassessment once every five years. However, a county could submit a plan to inspect more than 20% (up to 100%) of the parcels in any one year. All parcels would still be subject to annual adjustments.

Assuming that all property is currently assessed in accordance with the assessment and trending rules, general reassessments under current law should result in only modest one-year changes to most assessments. The general reassessment also picks up physical changes in property not previously noted. The change to cyclical reassessments would have the same overall effect. Since annual adjustments would continue for all property, there should be no discernable change in overall assessment levels.

Personal Property Returns - Amended Returns: Under current law, business personal property tax returns must be filed by May 15th of each year. The local assessor may grant an extension through June 14th. Taxpayers may also file an amended return within six months of the filing date or extended filing date if an extension was granted. Beginning with tax returns originally due on May 15, 2010, this bill would allow an amended return to be filed within the 12 months following the normal or extended filing date.

Currently, if an amended return is filed by July 15th, the tax bill payable in the following year reflects the updated values. If the amended return is filed after July 15th, the tax bill payable in the following year is based on the values reported on the original return. Overpayments, if any, are credited to the taxpayer's tax bill for the next tax year. Credits for overpayments reduce property tax collections in the year in which they are applied.

Since current law already addresses the payment schedule for amended returns filed after July 15th, the additional six months granted by this bill to file an amended return should have no impact on current year tax collections. If the longer amendment period encourages the filing of additional amended returns, then subsequent year tax collections could be affected. Under the bill, credits and refunds for amended returns filed more than 6 months after the filing (or extended filing) date would be subject to a reduction of 10%.

Referenda: Under current law, a capital project is considered a controlled project if it will cost the political subdivision more than the lesser of (1) \$2 M or (2) an amount equal to 1% of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least \$1 M).

A controlled project for a school building for kindergarten through Grade 8 is subject to a referendum if the cost is more than \$10 M. A controlled project for a school building for Grade 9 through Grade 12 is subject to a referendum if the cost is more than \$20 M. Other controlled projects with a cost that exceeds the lesser of (1) \$12 M or (2) 1% of the assessed value (but at least \$1 M) are also subject to a referendum. Controlled projects that are not subject to a referendum are subject to the petition and remonstrance process.

Under this provision, a taxing unit that makes a determination to issue debt or enter into a lease/rental that would not otherwise require a referendum could adopt a resolution specifying that the referendum process applies rather than the petition and remonstrance process. Property tax levies used to pay debt or lease/rentals that were approved in a referendum are exempt from the property tax circuit breaker caps. This provision could result in some future debt and lease/rental levies that would be inside the circuit breaker caps under current law being placed outside the caps. The impact would depend on local unit action and voter preference.

Church Exemption: Under this provision, a church may file an exemption application by June 30, 2010, effective for taxes payable in 2008 under the following conditions:

- (1) The church constructed a community center, assessable for the 2007 assessment date;
- (2) The church failed to timely file an exemption application for the 2007 assessment date;
- (3) The property would have otherwise been eligible for exemption; and
- (4) The church timely filed an exemption application for the 2008 assessment date, which was

granted.

The total number of properties that could be affected is unknown. One property has been identified in Howard County. According to county records, the original Pay 2008 tax bill was \$16,677. With penalties, the total due is \$18,372. A payment of \$9,186 was made in April 2009, leaving a balance of \$9,186.

Under this bill, the exemption would apply retroactively and the tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the remaining \$9,186 that is due. Overall current year tax collections would also be reduced by \$9,186 in order to provide a refund of the amount already paid.

Social Service Center Exemption: Under this provision, a social service center may file an exemption application by June 30, 2010, effective for taxes payable in 2007 under the following conditions for either of two situations:

Situation A

- (1) The social service center acquired personal property and land, then made improvements to the land, all assessable for the 2006 assessment date;
- (2) The social service center failed to timely file an exemption application for the 2006 assessment date;
- (3) The property would have otherwise been eligible for exemption; and
- (4) The social service center timely filed an exemption application for the 2007 assessment date, which was granted.

The total number of properties that could be affected under this provision is unknown. One affected property has been identified in Marion County. According to a notice issued by the county in September 2009, the total amount due on real property, including interest and penalties, is \$64,389. According to county records, the original tax bill for personal property amounted to \$478.

Situation B

- (1) The social service center acquired personal property, land, and improvements from a nonprofit youth sports club that was assessable for the 2006 assessment date;
- (2) Neither the youth sports club nor the social service center timely filed an exemption application for the 2006 assessment date;
- (3) The property would have otherwise been eligible for exemption; and
- (4) The social service center timely filed an exemption application for the 2007 assessment date, which was granted.

The total number of properties that could be affected under this provision is unknown. One affected property has been identified in Marion County. According to a notice issued by the county in September 2009, the total amount due on real property, including interest and penalties, is \$16,840.

Under both provisions, the exemptions would apply retroactively and the tax bills would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the amounts currently due, about \$81,700.

Fraternity and Other Exemptions: Under this provision, a fraternity, sorority, or educational, literary, scientific, religious, or charitable organization may file an exemption application between January 16, 2010,

and January 24, 2010, inclusive, effective for taxes payable in 2007, 2008, 2009, or 2010. In order to file an exemption application under this provision, the entity must have received an exemption for a preceding year on the same property.

The total number of properties that could be affected is unknown. One property owned by a fraternity has been identified in Marion County. According to county records, the original tax bills amounted to \$30,143 in 2007, \$25,872 in 2008, and \$19,310 in 2009. The total for this entity over the three years is \$75,325 plus accrued interest and penalties.

Under this provision, the exemption would apply retroactively and the tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the amounts currently due.

Boy Scout Exemption: Under this provision, a local council of the Boy Scouts of America (BSA) may file an exemption application by June 30, 2010, effective for taxes payable in 2008 under the following conditions:

- (1) The BSA acquired title to land and improvements after March 1, 2007 and the property was taxable for the 2007 assessment date;
- (2) The BSA failed to timely file an exemption application for the 2007 assessment date;
- (3) The BSA timely filed an exemption application for the 2008 assessment date, which was granted; and
- (4) The property would have been eligible for exemption for the 2007 assessment date if the BSA had owned the property on March 1, 2007 and if the BSA had timely filed an exemption application.

The total number of properties that could be affected is unknown. One property has been identified in St. Joseph County. According to county records, the original Pay 2008 tax bill was \$29,485. With penalties, the total due is \$35,587.

Under this bill, the exemption would apply retroactively and the tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the tax due.

American Legion Exemption: Under this provision, the American Legion may file an exemption application by June 30, 2010, effective for taxes payable in 2008 and 2009 under the following conditions:

- (1) The Legion holds title to land and improvements and personal property in Marion County that were assessed for the 2007 and 2008 assessment dates at more than five times the 2005 assessment;
- (2) The Legion failed to timely file an exemption applications for the 2007 and 2008 assessment dates;
- (3) The Legion timely filed an exemption application for the 2009 assessment date, which was granted; and
- (4) The property would have been eligible for exemption for the 2007 and 2008 assessment dates if the Legion had owned the property on the assessment dates and if the Legion had timely filed an exemption application.

The total number of properties that could be affected is unknown. One property has been identified in Marion County. According to county records, the original tax bills totaled \$126,521. With penalties, the total due is \$137,300.

Under this bill, the exemption would apply retroactively and the tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the tax due.

Retroactive Exemptions: HEA 1001-2009(ss) granted additional time to file for a property tax exemption that applies to taxes payable from 2002 through 2010 for property owned and used for educational, literary, scientific, religious, or charitable purposes. The extension of time applied if the owner failed to file an application or if there was insufficient documentation attached to the application. Exemption applications could have been filed through August 31, 2009.

This bill would limit the additional filing opportunity to an entity that meets at least one of the following sets of requirements:

- (1) The entity had a 501(c)(3) income tax exemption, timely filed, and was granted an exemption in year preceding the assessment year, but after 1999; or
- (2) The entity was formed to finance improvements and to allow a 501(c)(3) exempt organization to have predominant use of the property as a community center for working families; or
- (3) The entity was a 501(c)(3) exempt organization that predominantly used the property as a community center for working families.

The exemption applications that are allowed under current law will result in either unpaid taxes that were billed in prior years or in refunds of taxes paid by these entities. Refunds of prior property tax payments reduce current year tax revenues. Under the bill, an exemption application filed under the extension by an entity that did not meet any of the requirements would be denied. This bill would limit the number of retroactive exemptions granted and the associated revenue loss.

Deadlines - Rehabilitation Property Tax Deduction Applications: Under current law, an application for a rehabilitated property tax deduction must be filed in the year of assessment or within 30 days of receiving a notice of assessment if received before *December 31st*. This provision would allow the filing within 30 days of receiving a notice of assessment if received before *December 1st*.

Deadlines - LOIT Changes: Currently, most LOIT rate adoptions, rescissions, or changes must be adopted between April 1st and July 31st, inclusive, to be effective in the year adopted. Under this bill, adoptions, rescissions, or changes may be made at any time in a year before November 1st. This provision could result in faster implementation of LOIT changes adopted by a county. The effective dates, based on adoption date, are as follows.

Proposed Effective Dates For New or Increased LOIT Rates	
Adoption Date	Effective Date
January 1 to September 30	October 1
October 1 to October 15	November 1
October 16 to October 31	December 1

Proposed Effective Dates For Rescinded or Reduced LOIT Rates	
Adoption Date	Effective Date
January 1 to September 30	Later of : October 1 or same month as last rate increase
October 1 to October 15	Later of : November 1 or same month as last rate increase
October 16 to October 31	December 1

Fire Protection Territories: Under current law, the legislative bodies of at least two contiguous taxing units may establish a fire protection territory. All units involved in the FPT are participating units, one of which is the provider unit. During the first three years of the territory's existence, the participating units each impose a property tax levy to support the FPT. After three years, the provider unit imposes a levy and tax rate upon all of the property in the FPT and the other participating units' levies for fire protection are eliminated.

Prior to the passage of HEA 1001-2008, a participating unit's maximum levy could be increased in the first three years in order to generate the unit's share of the amount necessary to fund the FPT. Under HEA 1001-2008, the levy for an FPT could not increase in any year by more than the income-based assessed value growth quotient (AVGQ), about 3% per year.

However, under HEA 1001-2009ss, new participating units will submit their first-year proposed budget, levy, and tax rate for the FPT to the DLGF. The initial levy set by the DLGF is the basis for future levy growth under the AVGQ growth limits, except that the DLGF may reduce the base by all or a part of the initial levy that was used to establish an operating balance. The operating balance may not exceed 20% of budgeted expenses.

Under this bill, a civil taxing unit may petition the DLGF for an increase in its maximum levy to meet its obligations to the FPT. The DLGF may grant increases over a three-year period, allowing for a reasonable operating balance, with no specific limit rather than the current 20% limit. This provision would permit more flexibility in setting maximum levies in the first three years. Initial levies could be higher under this bill to build an operating balance if the DLGF determines that the reasonable operating balance exceeds 20% of expenditures.

(Revised) *Wireless Emergency Telephone System Fund:* The bill provides that any enhanced prepaid wireless charges collected by the Board and deposited in the Wireless Emergency Telephone System Fund will be administered in the same manner as the wireless emergency enhanced 911 fees. (See *Explanation of State Revenues* for further information regarding distribution.)

(Revised) *Library Cards:* Under current law, a library board may issue a local library card to residents of the library district free of charge, and for a fee (\$25 minimum) to Indiana residents who are not residents of the library district. The board, at its discretion, may charge a reduced fee to students who attend a public or nonpublic school in the library district.

Under this bill, the board by majority vote, may issue a library card free of charge to employees of the library district and employees of a school corporation or nonpublic school located in the district. This may reduce the amount of revenues the district receives from issuing library cards.

(Revised) *Collection of Unpaid Debts*: Under current law, a Class 1 library board may designate a third party to collect money for the library if the amount is over ten dollars (there is no similar provision for a Class 2 library). This bill would permit both Class 1 and Class 2 libraries to designate a third party to collect money on their behalf regardless of the amount owed. This may increase the amount of revenue collected by libraries, especially Class 2 libraries.

State Agencies Affected: Legislative Services Agency; DLGF; State Budget Agency; DOR; IEDC; Budget Committee; State Treasurer; State Library; Wireless Enhanced 911 Advisory Board.

Local Agencies Affected: County auditors; County councils and income tax councils; Fire protection territories; County assessors; Township assessors; Local taxing units impacted by circuit breaker credits; Public libraries; Property tax boards of appeals; PSAPs; Delaware County.

Information Sources: Jennifer Alvey, Indiana Finance Authority, 233-4338; Tom Conley, DOR, 317-232-2107; Ken Lowden, Indiana Enhanced Wireless 911 Board, 317-234-2507;

Center for Fiscal Accountability, <http://www.fiscalaccountability.org/index.php?content=state>; Kim Garner. Alaska Department of Administration, Division of Finance, 907-465-3435; Trent Fellers, Nebraska State Treasurer's Office, 402-471-8884; Dave McTeer, Nevada Department of Administration, Information Technology Division, 775-684-0222; Lisa McKeithan, Oklahoma Office of State Finance, 405-521-3772;

Farmland Assessment For Property Taxes, Larry DeBoer, Purdue University, http://www.agecon.purdue.edu/crd/Localgov/Topics/Essays/Prop_Tax_FarmLand_Asmt.htm; LSA parcel-level assessment and tax database;

Marion and St. Joseph County Auditor tax records and treasurer notices; Auditor of State, Revenue Trial Balance, FY 2007-FY 2009; OFMA Income Tax databases: 2007-2009;

Fiscal Analyst: Bob Sigalow, 317-232-9859; Jessica Harmon, 317-232-9854; Jim Landers, 317-232-9869; David Lusan, 317-232-9592.